

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JAMES F. SNYDER,

Plaintiff,

v.

CLAYTON STEVENS,

Defendant.

Case No. 2:17-cv-00352-SU

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Patricia Sullivan issued Findings and Recommendation in this case on September 19, 2018. ECF 58. Magistrate Judge Sullivan recommended that this Court grant defendant's motion to dismiss for failure to state a claim and for summary judgment, ECF 28, deny defendant's motion for partial summary judgment as moot, ECF 52, and dismiss this action.

Under the Federal Magistrates Act ("Act"), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court

must review *de novo* magistrate judge's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate judge's recommendations for "clear error on the face of the record."

Snyder timely filed an objection. ECF 65. The Court has reviewed *de novo* those portions of Magistrate Judge Sullivan's Findings and Recommendation to which Snyder has objected. The Court agrees with Magistrate Judge Sullivan's reasoning and ADOPTS those portions of the Findings and Recommendation.

For those portions of Magistrate Judge Sullivan's Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Magistrate Judge Sullivan's Findings and Recommendation, ECF 58. The Court **GRANTS** defendant's motion to dismiss for failure to state a claim and for summary judgment, ECF 28, **DENIES** defendant's motion for partial summary judgment as moot, ECF 52, and **DISMISSES** this action.

IT IS SO ORDERED.

DATED this 30th day of November, 2018.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge